

# City of Detroit



## CITY COUNCIL

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TO: The Honorable City Council

FROM: David Whitaker   
Julianne Pastula 

DATE: August 4, 2004

RE: **LAND BANK LEGISLATION AND ITS POTENTIAL IMPACT ON  
LAND USE AND DISPOSITION PROCESS**

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At the Honorable City Council's request, the Research & Analysis Division (RAD) submits the following report on land bank legislation.

### I. SUMMARY

This report summarizes the provisions of the Land Bank Fast Track Act, and the tie-barred State House Bills that became law. It also covers the feasibility of the City to have its own successful land bank, outlines some of the pros and cons of City versus County land banks as well as a City-County partnership.

### II. DISCUSSION

A land bank assembles and holds properties for short or long term strategic purposes to achieve identified policies and goals such as eliminating harms caused by vacant structures and conveyance of properties to new owners. A common focus of established land banks is to return tax reverted property to productive use. In order for a land bank to successfully convert community liabilities to long-term assets it must be set up to deal with the obstacles unique to the municipality that have been an impediment in the past. For example, title problems, lack of knowledge of the inventory of property, and the priorities of the municipality in re-building the community.

#### A. Public Acts

The public acts detailed below create the Michigan Land Bank and Community Development Act; establish the Land Bank and Community Development Fund and the Michigan Land Bank Fast Track Authority. Collectively they provide for the creation of municipal land bank authorities and outline their powers. All of the bills took effect January 5, 2004.

## **1. Public Act 258 of 2003 – Land Bank Fast Track Act**

The Land Bank Fast Track Act provides for the mandatory creation of state, discretionary creation of local land bank fast track authorities (hereafter “local authority”) to assist governmental entities in the assembly and clearance of properties. The property and income of the local authority is public, must be dedicated to essential public and governmental function and purpose and is exempt from all taxes and assessments. Bonds or notes issued by the local authority and the interest and income from them are also exempt from state or local taxation.

A local authority may exercise control over its property as would a private property owner. *Without the approval of a local unit of government in which the property is located*, the local authority may control, hold, manage, maintain, operate, repair, lease, secure, prevent the waste or deterioration, demolish and take all other actions necessary to preserve the value of the property. The local authority may dispose of property they hold to any public or private person for a value determined by the authority (including no monetary consideration).

All property held by a local authority must be inventoried and classified according to title status and suitability for use. Geographical Information Systems (GIS) technology can be very useful in meeting this specific requirement. The City’s GIS system was implemented in 1999. If a specific property address is entered, GIS has the ability to display properties in the surrounding one-half mile range color-coded by owner (city, state, private, etc.)

### **a. Intergovernmental agreements**

A county, foreclosing governmental unit, qualified city, township or village could enter into intergovernmental agreement with the Michigan State Land Bank Fast Track Authority to establish a local land bank authority. Prior to their effectiveness all intergovernmental agreements must be filed with the clerk of each county where a party to the agreement is located and with the secretary of state. The Genesee County Land Bank intergovernmental agreement was approved at the State Land Bank Authority meeting on July 7, 2004<sup>1</sup>. A copy of the document is attached to this memo.

Section 124.773 of the Fast Track Act permits local jurisdictions (for example, city and county) to enter into contractual agreements to jointly exercise power, privilege or authority that could be exercised separately under the Urban Cooperation Act.

The authority agreements with the State must contain the following:

1. Incorporation as a public body corporate;
2. Name of the authority;

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<sup>1</sup> The intergovernmental agreement will not be finalized until reviewed by the State Attorney General and signed by the Governor.

3. Size of the initial governing body of the authority<sup>2</sup>;
4. The qualifications, method of selection, and terms of office of the initial board members;
5. Method for the adoption of articles of incorporation by the governing body of the authority;
6. Method for the distribution of proceeds from the activities of the authority;
7. Method for the dissolution of the authority and for the withdrawal from the authority of any governmental agencies involved<sup>3</sup>; and
8. Any other matters considered advisable by the participating governmental agencies that are consistent with the Fast Track Act.

A qualified city may enter into an agreement with a local authority to transfer property, including but not limited to tax reverted property or interests in tax reverted property, to the local authority.

A local authority may enter into agreements with the county treasurer for the collection of property taxes or the enforcement and consolidation of tax liens for any property or interests in property transferred to the local authority.

To assist a local authority, a qualified city, any agency or department of a qualified city, or any other official public body may do one or more of the following:

- a. Anything necessary or convenient to aid the local authority in fulfilling its purposes.
- b. Lend, grant, transfer, appropriate, or contribute funds.
- c. Lend, grant, transfer or convey funds that are received from the federal government or the state or from any non-governmental entity<sup>4</sup>.

**b. Powers**

A qualified city<sup>5</sup> may create a local authority by entering into an agreement with the State's Land Bank Authority to exercise the following powers:

- Adopt, amend and repeal bylaws
- Sue and be sued
- Borrow money and issue bonds and notes
- Enter into contracts including but not limited to interlocal agreements
- Solicit and accept gifts, grants, labor, loans and other aid
- Procure insurance
- Invest money of the authority
- Employ legal and technical experts

<sup>2</sup> The governing body must contain an odd number of members.

<sup>3</sup> Section 124.771 of PA 258 provides for dissolution of the state authority by a five-member vote of the authority board with governor approval. Any property held would be transferred to another authority or state agency and the remaining balance in the fund would be transferred to the general ledger.

<sup>4</sup> A local authority may reimburse advances made by a qualified city or any other person for costs eligible to be incurred by the local authority and enter into agreements relative to those reimbursements.

<sup>5</sup> Contains a first class school district.

- Contract for goods and services and engage personnel as necessary
- Study, develop and prepare reports or plans necessary to exercise its powers
- Enter into contracts for the management of, collection of rent from or the sale of real property.

The local authorities are required to adopt a code of ethics and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest.

Under the Act, land bank authorities may not do the following:

1. Assist or expend any funds for the development of a casino.
2. Levy any tax or special assessment.
3. Exercise the power of eminent domain or condemn property.

**c. Acquire and dispose of property**

The core legal functions of a land bank are: acquire, hold and dispose of property. Under Michigan law, a local authority can acquire property by: gift, devise, transfer, exchange, foreclosure, purchase<sup>6</sup>, or otherwise on terms and conditions the authority considers proper. Property may also be purchased from the Department of Natural Resources, the Michigan State Housing Development Authority or the foreclosing governmental unit. However, *the foreclosing governmental unit may not transfer property subject to forfeiture, foreclosure or sale until after the property has been offered for sale or other transfer.*

A person with an interest in property that is tax delinquent or tax reverted may convey their interest in the parcel to a local authority in lieu of the foreclosure or sale. This deed transference cannot be done without the approval of all taxing jurisdictions and the foreclosing governmental unit that would be affected. This approval extinguishes all recorded or unrecorded unpaid taxes on the property. Conveyance of the property by deed (in lieu of foreclosure) will not affect any other lien against the property including, but not limited to: future installments of special assessments, private deed restrictions, mortgages or a foreclosing governmental unit that does not consent to the release of their liens. A tax lien against property held by a local authority may be released at any time by the governing body of the taxing jurisdiction that holds the lien.

**d. Expedited quiet title and foreclosure action**

A local authority may initiate an expedited quiet title and foreclosure action to quiet title to real property or interests in tax reverted property they hold. Property is not subject to this action if the property was forfeited and remains subject to foreclosure.

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<sup>6</sup> By purchase contract, lease purchase agreement, installment sales contract, land contract or otherwise (except condemnation and eminent domain).

The procedure, notification requirements and appeal process for the expedited quiet title and foreclosure action is set forth in detail in the Land Bank Fast Track Act §124.759. The following is a summary of the provisions:

- The authority records a notice of pending quiet title and foreclosure action with the registrar of deeds in the county in which the property is located and files a petition with the circuit court listing all of the properties.
- The petition requests that judgment be entered vesting absolute title in the authority without right of redemption for each parcel. Prior to the entry of judgment, the authority may request the court to remove properties erroneously listed, or any tax delinquent properties that have been redeemed.
- Not less than 30 days before the quiet title and foreclosure hearing, the authority must do the following: send notice certified mail, return receipt requested; send notice regular mail; visit each parcel of property and post notice of the hearing.
- If the authority is unable to ascertain the owner's address they must give notice by publication<sup>7</sup>.
- If prior to the hearing, the authority discovers a deficiency in the provision of notice, they shall take reasonable steps in good faith to correct the deficiency before the hearing.
- To contest the petition for foreclosure & quiet title an individual must file written objections to the clerk of the circuit court and serve the objections on the local authority prior to the hearing.
- Fee simple title to the property set forth in the petition shall vest absolutely in the authority upon the effective date of the final order of the court<sup>8</sup>. The authority's title shall not be stayed or held invalid<sup>9</sup>.

If a local authority records a notice of judgment with the registrar of deeds in error, they may record a certificate of correction for any of the following reasons:

- a. Description of the property was so indefinite or erroneous that the foreclosure of the property was void.
- b. Notice was not provided to an entitled owner sufficient to satisfy minimum due process requirements.
- c. Judgment of foreclosure was entered in violation of an order issued by a U.S. bankruptcy court.

If a local authority fails to comply with any provision of the quiet title and foreclosure action procedure, the proceeding will not be invalidated if a person with an interest in the property was accorded minimum due process required under both the state and federal constitutions.

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<sup>7</sup> The publication must run for three successive weeks prior to the hearing in a newspaper published and circulated in the county where the property is located.

<sup>8</sup> The Court will enter judgment within ten days after the hearing (contested or uncontested).

<sup>9</sup> Within 21 days of the effective date of the judgment an authority or person claiming to have an interest in foreclosed property may appeal the circuit court's judgment foreclosing property to the court of appeals. The circuit court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified or affirmed that judgment.

These provisions will not necessarily correct the current problems relative to clearance of title and the barriers property owners encounter attempting to obtain title insurance on tax-reverted property or properties with clouded title.

**e. Borrowing money and issuing bonds**

Section 24 of the Fast Track Act details fiscal powers including the following:

- By resolution of its board, a local authority may borrow money and issue bonds and notes.
- Qualified city or county which authorized the formation of an authority may by a majority vote of its governing body, make a limited tax pledge to support the authority's bonds or notes.
- Bonds and notes issued by an authority under §124.774 and the interest and income from them are tax exempt.

**f. Additional provisions**

Section 124.764 of the Fast Track Act sets forth the construction, intent and scope of the Fast Track legislation. It states that the Act should be liberally construed to effectuate the legislative intent and that the powers granted should be interpreted broadly. The section also states:

(1) In the exercise of its powers and duties under this act and its powers relating to property held by the authority, the authority shall have complete control as fully and completely as if represented a private property owner and *shall not be subject to restrictions imposed on the authority by the charter, ordinances and resolutions of a local unit of government.*

(2) Unless permitted by this act or approved by an authority, any restrictions, standards, conditions, or prerequisites of a city, village, township, or county otherwise applicable to an authority an enacted after the effective date of this act shall not apply to an authority. *This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applied to other persons or entities.*

(3) *The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary.* This section is not intended to exempt an authority from local zoning or land use controls, including, but not limited to, those controls authorized under the city and village zoning act, the local historic district act or the blighted area rehabilitation act (citation omitted).

(4) The transfer to an authority of tax reverted property, the title to which involuntarily vested in this state, in a foreclosing governmental unit, or in a qualified city pursuant to procedures established under the charter or ordinances of the qualified city, shall be construed as an involuntary transfer of property to the authority. After a transfer described in this subsection, the authority shall be deemed to have assumed any governmental immunity or other legal defenses of this state, the foreclosing governmental unit or the local unit of government related to the property and the manner in which title to the property was being held by this state or local unit of government (citation omitted).

(Emphasis added)

## **2. Public Act 259 of 2003 – Brownfield Redevelopment Financing Act**

Amends the Brownfield Redevelopment Financing Act to include assistance to a land bank in clearing title or disposing of property as “eligible activities” of the tax increment financing board responsible for implementing a Brownfield plan. It also expands the definition of “blighted property” eligible for Brownfield status to include properties held by a land bank.

## **3. Public Act 261 of 2003**

Amends Section 211.7gg of the General Property Tax Act (MCL 211.1 et al) so that the governing body of a local tax-collecting unit could adopt a resolution to exempt eligible<sup>10</sup> tax reverted property from taxation for five years from the sale of the parcel.

## **4. Public Act 260 of 2003 – Tax Reverted Clean Title Act**

Eligible tax reverted property (including property sold by a land bank) would be exempt from property taxes under the General Property Tax Act. Instead, the local assessor would determine on an annual basis the value and taxable value of each eligible tax reverted parcel. This information is used to levy an “eligible tax reverted property specific tax” equal to the amount that would be levied under the General Property Tax Act. The Act also specifies how the tax will be collected<sup>11</sup> and disbursed. Half of the levy would be returned to the state, cities, school districts and counties as required by the General Property Tax Act. The other half would be returned to the local tax collecting unit in which the property is located for use to clear title on eligible tax reverted property

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<sup>10</sup> Properties must met four conditions to be eligible: returned as delinquent for taxes prior to January 1, 1999; subject to disposition, sale, and redemption for the enforcement and collection of delinquent taxes; title has been transferred to the local collecting unit as a result of non-payment of taxes; was sold by the local tax collecting unit and would be returned to the tax roll if not for the five year exemption.

<sup>11</sup> Annual tax payable at the same time and to the same officers as the levies under the General Property Tax Act.

or to repay loans made to land banks pursuant to 262 PA 2003. The “eligible tax reverted property specific tax” would be a lien on the property until paid.

## **5. Public Act 262 of 2003**

Amends Section 21.142f of Public Act 105 of 1855 that regulates the disposition of surplus funds in the state treasury. It allows the state treasurer to invest surplus funds in market rate of interest loans to land banks for the purpose of clearing or quieting title to tax reverted property under the control of a land bank.

### **B. Feasibility of Land Banks in Detroit**

The Land Bank Fast Track Act allows for eligible cities and counties, which Detroit and Wayne County are, to create land bank authorities separately or in a partnership to facilitate the acquisition and disposition of land for development, increase economic growth, and expand the tax base. There are benefits and disadvantages associated with any proposed land bank structure (City, County, or City-County) that are summarized in part in the following section. A significant barrier for a City land bank could be the ongoing receipt of properties. There is currently a backlog of City-owned properties, of which selected parcels (or all if desired) could be transferred to the land bank. However, a process for the ongoing acquisition of properties would need to be established. Properties currently controlled by the State Land Bank Authority could be transferred to the City land bank. Another possibility is an agreement with the County to enable the transfer of foreclosed properties within City limits to the land bank. Properties on the foreclosure list could also be purchased by the City prior to auction for minimum bid. In addition, after the County has attempted to auction the property twice, the City has the option to acquire the unsold property for no cost.

In addition to the method for obtaining a flow of property for inventory purposes, there are considerations for the control of funds generated by the local authority and underlying policy and procedure questions that would need to be addressed prior to the formation of a land bank. The receipt of properties from the tax foreclosure system coupled with the coordination of resources and planning activities in a City-County partnership could result in the most comprehensive and stable entity.

### **C. Pros and Cons of Different Land Bank Structures**

#### **City Controlled Land Bank (Separate from any County Land Bank)**

##### **PRO**

Retain exclusive City control of land, funding and planning  
Retain exclusive City control of policies including redevelopment  
Representative of City's interests exclusively on the Authority Board  
Control over significant inventory of surplus City-owned inventory



## **CON**

County is the foreclosing governmental unit; land bank would have no influence on tax foreclosure prevention

Require collaboration with County to acquire tax-foreclosed properties

Wayne County has expressed interest in establishing a land bank. This entity would be in competition with the City's for resources (both land and funding)

Requires significant start up costs borne only by the City

Duplicates activities of any County Land Bank

No one-stop-shopping for developers seeking property

### **County Controlled Land Bank** (Separate from any City Land Bank)

## **PRO (from County's perspective)**

Ongoing availability of property because they are the foreclosing governmental unit

Retain exclusive County control of land, funding and planning

Retain exclusive County control of policies including redevelopment

Representative of County's interests exclusively on the Authority Board

Use tools of PA 123 to coordinate which parcels are transferred to the land bank and the money to fund it.

Could use a dedicated revenue source from the foreclosure process to partially fund the land bank.

## **CON (from City's perspective)**

No influence on disposition of land, funding or planning

Potential negative impact on the rights of citizens and local jurisdictions (County's prior history with tax foreclosure prevention and auction)

Competition with City Land Bank for resources (both land and funding)

Duplicates activities of any City Land Bank

No one-stop-shopping for developers seeking property

### **City-County Partnership Land Bank**

## **PRO**

Regional collaboration/efficiency

One-stop-shopping for developers seeking property in Detroit and Wayne County

City would retain input on property held by the land bank through the Authority Board

Availability of land received through tax foreclosure process

Availability of land in City's surplus inventory

Use tools of PA 123 to coordinate which parcels are transferred to the land bank and the money to fund it

Could use a dedicated revenue source from the foreclosure process to partially fund the land bank

Shared start-costs

Shared grant funding (rather than competition for grant funding)

## **CON**

Potential competition between interests  
Shared control between County and City

### **D. Policy Positions and Reports**

The establishment of the Genesee Land Bank, the legislation formalizing the establishment of Michigan land banks, as well as discussions of a local land bank has led different organizations to study, report and state their opinions on the subject. Please find the following attached:

- Community Legal Resources (CLR), a nonprofit provider of legal services to community development corporations, has provided a very comprehensive summary of the legislation and the Genesee County model. It also discusses the opportunities and obstacles before the City in establishing its own land bank authority and activities in the near future that have an impact on ongoing land bank discussions. CLR is a valuable resource to community development groups and other entities on this issue.
- Community Development Advocates of Detroit (CDAD) adopted a position paper in February 2003 on "Tax Reverted Property Disposition Policies in Detroit". The position paper contains recommendations for a property disposition program with strong community involvement.
- Community Development Advocates of Detroit (CDAD) more recently adopted a position paper in June 2004 that supports the creation of City and/or County land banks. They also present elements they consider necessary in the structure and operation of a local land bank authority to benefit community development practices.
- Metropolitan Organizing Strategy Enabling Strength (MOSES) priority statement dated May 25, 2004, states that a land bank is critical in reducing the number of abandoned parcels and revitalization of Detroit. They also list principles for an equitable and successful land bank model. MOSES hosted a land bank briefing meeting on June 21, 2004.
- Graduate students attending the University of Michigan, Taubman College of Architecture and Urban Planning, released a report titled "Harnessing Community Assets: A Detroit Land Bank Authority" in April 2004. A three-page summary of the report is attached<sup>12</sup>. The comprehensive student report, which was researched over the course of one-year, includes analysis of the following: the Land Bank Fast Track legislation; land disposition in Detroit with and without a land bank; potential and defined benefits of a local land bank; analysis of land banks in other cities; recommendations; and drafts of enabling documents.

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<sup>12</sup> The full report is approximately one hundred pages long and is available in electronic format or hard copy from RAD upon request.

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN THE**

**MICHIGAN LAND BANK FAST TRACK AUTHORITY**  
(a Michigan public body corporate and politic)

**AND THE**

**TREASURER OF THE COUNTY OF GENESEE, MICHIGAN**

**CREATING THE**

**GENESEE COUNTY LAND BANK AUTHORITY**  
(a Michigan public body corporate and politic)

This Agreement is entered into under Section 5 of Article 3 and Section 28 of Article 7 of the Michigan Constitution of 1963, the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, and the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, between the **MICHIGAN LAND BANK FAST TRACK AUTHORITY**, a Michigan public body corporate and politic, and the **TREASURER OF THE COUNTY OF GENESEE, MICHIGAN**, for the purpose of establishing and creating the **GENESEE COUNTY LANDBANK AUTHORITY**, a separate legal entity and public body corporate and politic to administer and execute the purposes and objectives of this Agreement.

### RECITALS

A. In enacting the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, the 92nd Michigan Legislature found that there exists in the State of Michigan a continuing need to strengthen and revitalize the economy of the State of Michigan and local units of government in this state and that it is in the best interests of the State of Michigan and local units of government in this state to assemble or dispose of public property, including tax reverted property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Michigan and local units of government in this state.

B. The Michigan Land Bank Fast Track Authority is created as a public body corporate and politic within the Michigan Department of Labor and Economic Growth, a principal department of the executive branch of state government, under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, and is authorized to enter into an intergovernmental agreement with a county foreclosing governmental unit providing for the creation of a county authority to exercise the powers, duties, functions, and responsibilities of an authority under that act.

C. The Treasurer of the County of Genesee, Michigan is a foreclosing governmental unit under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, and Section 78 of The General Property Tax Act, 1893 PA 206, MCL 211.78.

D. It is the intent of the Michigan Land Bank Fast Track Authority and the Treasurer of the County of Genesee, Michigan to establish a county authority as a separate legal entity and as a public body corporate and politic under the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, to exercise within Genesee County, Michigan the powers, duties, functions, and responsibilities of an authority under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, consistent with this agreement. Accordingly, the Michigan Land Bank Fast Track Authority and the Treasurer of the County of Genesee, Michigan agree to the following:

## **ARTICLE I**

### **DEFINITIONS**

As used in this Agreement:

**Section 1.01. "Act 7"** means the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

**Section 1.02. "Agreement"** means this intergovernmental agreement between the Michigan Land Bank Fast Track Authority, a Michigan public body corporate and politic, and the Treasurer of the County of Genesee, Michigan.

**Section 1.03. "Budget Act"** means the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440a.

**Section 1.04. "City of Flint"** means the City of Flint, County of Genesee, Michigan, a Michigan municipal corporation.

**Section 1.05. "County Authority"** means the Genesee County Land Bank Authority, the public body corporate and politic created under this Agreement pursuant to Act 7 and the Land Bank Act.

**Section 1.06. "County Authority Board"** means the board of directors of the county authority created under Article IV.

**Section 1.07. "County Board"** means the Board of Commissioners for the County of Genesee, Michigan.

**Section 1.08. "Executive Director"** means an executive director of the County Authority selected under Section 4.12.

**Section 1.09. "Effective Date"** means the date upon which all of the following are satisfied, as provided under Section 10 of Act 7:

- (a). The Agreement is approved by the Governor.
- (b). The Agreement is filed with the County Clerk for the County of Genesee, Michigan.
- (c). The Agreement is filed with the County Clerk for the County of Ingham.
- (d). The Agreement is filed with the Secretary of State.

**Section 1.10. "Fiscal Year"** means the fiscal year of the County Authority, which shall begin on October 1 of each year and end on the following September 30.

**Section 1.11. "FOIA"** means the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

**Section 1.12. "Foreclosing Governmental Unit"** means that term as defined under Section 3(f) of the Land Bank Act, and Section 78 of The General Property Tax Act, 1893 PA 206, MCL 211.78.

**Section 1.13. "GCLRC"** means the Genesee County Land Reutilization Council, a Michigan public body corporate created under Act 7 by an interlocal agreement dated August 29, 2002, and entered into between Genesee County and the Charter Township of Flint, Michigan.

**Section 1.14. "Genesee County"** means the County of Genesee, Michigan.

**Section 1.15. "Land Bank Act"** means the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774.

**Section 1.16. "OMA"** means the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

**Section 1.17. "Party" or "Parties"** means either individually or collectively as applicable, the State Authority or the Treasurer as each is a signatory to this Agreement.

**Section 1.18. "Person"** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity, Public Agency, or other legal entity.

**Section 1.19. "Public Agency"** means, as defined in part in Act 7, a political subdivision of this state or of another state of the United States or of Canada, including, but not limited to, a state government, a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority, a provincial government, metropolitan government, borough, or other political subdivision of Canada, an agency of the United States government, or a similar entity of any other states of the United States and of Canada.

**Section 1.20. "State"** means the State of Michigan.

**Section 1.21. "Tax Reverted Property"** means that term as defined under Section 3(q) of the Land Bank Fast Track Act, 2003 PA 258, MCL 124.753(3)(q).

## **ARTICLE II**

### **PURPOSE**

**Section 2.01. Purpose.** The purpose of this Agreement is to create and empower the County Authority to exercise the powers, duties, functions and responsibilities of an authority under the Land Bank Act.

**Section 2.02. Programs and Functions.** The County Authority shall endeavor to carry out the powers, duties, and functions, and responsibilities of an authority under the Land Bank Act consistent with this Agreement, including, but not limited to, the power, privilege, and authority to acquire, manage, and dispose of interests in property, and doing all other things necessary or convenient to implement the purposes, objectives, and provisions of the Land Bank Act and the purposes, objectives, and powers delegated to a County Authority under other laws or executive orders.

**ARTICLE III**  
**CREATION OF COUNTY AUTHORITY**

**Section 3.01. Creation and Legal Status of County Authority.** The County Authority is established as a separate legal entity and public body corporate politic to be known as the "Genesee County Land Bank Authority" for the purposes of acting as an authority under the Land Bank Act and administering and executing this Agreement. The County Authority may also use the name and be known as the "Genesee County Land Bank".

**Section 3.02. Articles of Incorporation.** Not less than 30 days after the Effective Date, the Treasurer shall file initial articles of incorporation for the County Authority consistent with this Agreement, Act 7, and the Land Bank Act.

**Section 3.03. Principal Office.** The principal office of the County Authority is at the location or locations within the City of Flint, as determined by the County Authority Board.

**Section 3.04. Title to County Authority Assets.** Except as otherwise provided in this Agreement, the County Authority shall have exclusive title to all of its property and no Party shall have an ownership interest in County Authority property.

**Section 3.05. Tax-exempt Status.** The Parties intend the activities of the County Authority to be governmental functions carried out by an instrumentality or political subdivision of government as described in Section 115 of Internal Revenue Code of 1986, 26 USC 115, or any corresponding provisions of any future tax code. The Parties also intend the activities of the County Authority to be governmental functions carried out by a political subdivision of this State, exempt to the extent provided under Michigan law from taxation by this State, including, but not limited to, the single business tax under the Single Business Tax Act, 1975 PA 228, MCL 208.1 to 208.145, and property taxes under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.157 or corresponding provisions of future State tax laws. The property of the County Authority and its income and operations are exempt from all taxation by the State or its political subdivisions under Section 4(5) of the Land Bank Act.

**Section 3.06. Compliance with Law.** The County Authority shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

**Section 3.07. Relationship of Parties.** The Parties agree that no Party shall be responsible, in whole or in part, for the acts of the employees, agents, and servants of any other Party, whether acting separately or in conjunction with the implementation of this Agreement. The Parties shall only be bound and obligated under this Agreement as



expressly agreed to by each Party. No Party may obligate any other Party. No employee, agent, or servant of the County Authority shall be or shall be deemed to be an employee, agent, or servant of the State for any reason.

**Section 3.08. Successor to GCLRC.** The Parties acknowledge and agree that the County Authority may accept property held by GCLRC and that the County Authority may become the successor in interest of all rights, duties, powers, functions, and obligations of the GCLRC pursuant to an agreement between the County Authority and the GCLRC.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Agreement does not create in any Person, other than a Party, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably, or by implication), right to be subrogated to any Party's rights under this Agreement, and/or any other right or benefit.

**ARTICLE IV**  
**COUNTY AUTHORITY BOARD AND EXECUTIVE DIRECTOR**

**Section 4.01. County Authority Board Composition.** The County Authority shall be governed by the County Authority Board, a board of directors that shall be appointed within thirty (30) calendar days of the Effective Date. Elected officials and other public officers are eligible to serve as members of the County Authority Board to the extent permitted under Michigan law. The County Authority Board shall consist of the following members, except as provided in Section 4.02:

- (a). The Treasurer.
- (b). The Chairperson of the County Board.
- (c). One (1) resident of the City of Flint, appointed by the County Board.
- (d). One (1) resident of Genesee County not a resident of the City of Flint, appointed by the County Board.
- (e). Two (2) members of the general public appointed by the County Board.
- (f). One (1) member appointed by the Governor of the State.

**Section 4.02. Appointments by Elected County Executive.** If Genesee County adopts a unified form of county government providing for an elected county executive under 1973 PA 139, MCL 45.551 to 45.573, or if Genesee County adopts a county charter providing for an elected county executive under 1966 PA 293, MCL 45.501 to 45.521, the appointments under Sections 4.01(c), 4.01(d), and 4.01(e) shall be made by the elected county executive.

**Section 4.03. Term of Office.** Except as otherwise provided under this section, the members of the County Authority Board appointed under Sections 4.01(c) to 4.01(f) shall be appointed for a term of four (4) years. To provide for staggered terms, of the members initially appointed under Sections 4.01(c) to Section 4.01(e), one (1) of the members shall be appointed for a term of four (4) years, one (1) member shall be appointed for a term of three (3) years, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of one (1) year. The member appointed by the Governor under Section 4.01(f) shall be appointed for a term of four (4) years. After the expiration of the initial terms, members appointed under Sections 4.01(c) to 4.01(f) shall be appointed for terms of four (4) years.

**Section 4.04. Removal.** A member of the County Authority Board appointed under Sections 4.01(c) to 4.01(f) may be removed for cause by the appointing authority.

**Section 4.05. Vacancies.** A vacancy among the appointed members of the County Authority Board appointed under Sections 4.01(c) to 4.01(f), caused by the death, resignation, or removal of a County Authority Board member shall be filled by appointing authority in the same manner as the original appointment for the balance of the unexpired term.

**Section 4.06. Meetings.** The County Authority Board shall conduct its first meeting no later than forty-five (45) calendar days after the Effective Date, provided that a quorum of the County Authority Board has been appointed. The County Authority Board shall meet at least annually and hold such other meetings at the place, date, and time as the County Authority Board shall determine. All meetings of the County Authority Board shall comply with the OMA. Public notice of the time, date, and place of the meetings shall be given in the manner required by the OMA.

**Section 4.07. Quorum and Voting.** A majority of the County Authority Board shall be required to constitute a quorum for the transaction of business. The County Authority Board shall act by a majority vote at a meeting at which a quorum is present. A quorum shall be necessary for the transaction of business by the County Authority Board. Presence in person for both quorum and voting at a meeting may include electronic communication by which such member of the County Authority Board is both seen and heard by the members of the County Authority Board and any members of the public at the meeting.

**Section 4.08. County Authority Board Responsibilities.** The County Authority Board shall do all of the following by a majority vote of its members appointed and serving:

(a). Consistent with this Agreement, Act 7, and the Land Bank Act, adopt amendments to the initial articles of incorporation filed by the Treasurer under Section 3.02 and adopt subsequent amendments to the articles of incorporation as deemed necessary by the County Authority Board.

(b). Adopt bylaws, rules, and procedures governing the County Authority Board and its actions and meetings. Initial bylaws shall be adopted within six (6) months of the first meeting of the County Authority Board.

(c). Elect officers. Initial officers shall be elected within thirty (30) days of the first meeting of the County Authority Board.

(d). Approve policies to implement day-to-day operation of the County Authority, including policies governing any staff of the County Authority.

(e). Provide for a system of accounts to conform to a uniform system required by law, and review and approve the County Authority's budget to assure that the budgets are approved and administered in accordance with the Budget Act.

- (f). Provide for an annual audit in accordance with the Budget Act.
- (g). Adopt personnel policies and procedures.
- (h). Adopt policies and procedures for contracting and procurement.
- (i). Adopt an investment policy in accordance with 1943 PA 20, MCL 129.91 to 129.96, and establish banking arrangements for the County Authority.
- (j). Take such other actions and steps as shall be necessary or advisable to accomplish the purposes of this Agreement.

**Section 4.09. Fiduciary Duty.** The members of the County Authority Board are under a fiduciary duty to conduct the activities and affairs of the County Authority in the best interests of the County Authority, including the safekeeping and use of all County Authority monies and assets. The members of the County Authority Board shall discharge their duties in good faith, with the care an ordinarily prudent individual in a like position would exercise under similar circumstances.

**Section 4.10. Chairman.** The Treasurer shall be the Chairman of the County Authority Board.

**Section 4.11. Compensation.** The members of the County Authority Board shall receive no compensation for the performance of their duties. A County Authority Board member may engage in private or public employment, or in a profession or business, except to the extent prohibited by law. The County Authority may reimburse members of the County Authority Board for actual and necessary expenses incurred in the discharge of their official duties as provided by the County Authority Board.

**Section 4.12. Executive Director.** The County Authority Board may select and retain an Executive Director. An Executive Director selected and retained by the County Authority Board shall administer the County Authority in accordance with the operating budget adopted by the County Authority Board, general policy guidelines established by the County Authority Board, other applicable governmental procedures and policies, and this Agreement. The Executive Director shall be responsible for the day-to-day operations of the County Authority, the control, management, and oversight of the County Authority's functions, and supervision of all County Authority employees. All terms and conditions of the Executive Director's length of service shall be specified in a written contract between the Executive Director and the County Authority Board, provided that the Executive Director shall serve at the pleasure of the County Authority Board.

**Section 4.13. Ethics.** The County Authority Board shall adopt ethics policies governing the conduct of County Authority Board members, officers, appointees, and employees as required under Section 4(9) of the Land Bank Act. The policies shall be no less stringent than those provided for public officers and employees under 1973 PA 196, MCL 15.341 to 15.348.

**Section 4.14. Conflicts of Interest.** Members of the County Authority Board and officers, appointees, and employees of the County Authority shall be deemed to be public servants for the purposes of 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. As required under Section 4(10) of the Land Bank Act, the County Authority shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The County Authority Board shall require that any member of the County Authority Board with a direct or indirect interest in any matter before the County Authority Board disclose the member's interest to the governing body before the board takes any action on the matter.

**ARTICLE V**  
**GENERAL POWERS OF COUNTY AUTHORITY**

**Section 5.01. Powers Granted Under Act 7.** In carrying out its purposes, the County Authority may perform, or perform with any Person, as applicable, any power, privilege or authority that the Parties share in common and that each might exercise separately to the fullest extent permitted under by Act 7. The County Authority shall not have the power to bind a Party, unless otherwise agreed to by the Party. The enumeration of a power in this Agreement shall not be construed as a limitation upon the powers of the County Authority or a Party, and is in addition to any powers authorized by law. Among other things, the County Authority may:

(a). Make or enter into contracts, including, but not limited to, contracts for the provision of legal or accounting services.

(b). Employ agencies or employees.

(c). Acquire, construct, manage, maintain, or operate buildings, works, or improvements.

(d). Acquire, own, hold, operate, maintain, lease, or sell real or personal property and dispose of, divide, or distribute any property, including, but not limited to, equipment and office space.

(e). Incur debts, liabilities, or obligations that, except as expressly authorized by the Parties, do not constitute the debts, liabilities, or obligations of any of the Parties to the extent authorized under Act 7, or other applicable law.

(f). Cooperate with a Public Agency, an agency or instrumentality of the Public Agency, or another legal or administrative entity created by the Public Agency under Act 7.

(g). Make loans from the proceeds of gifts, grants, assistance funds, or bequests.

(h). Form other entities necessary to further the purposes of the Agreement.

(i). Sue and be sued in the name of the County Authority.

**Section 5.02. Additional Powers Granted Under Act 7.** The County Authority shall also have the powers to:

(a). Employ, appoint, engage, compensate, transfer, or discharge necessary personnel, subject to any provisions of applicable civil service and merit systems and Act 7.

(b). Fix and collect charges, rates, rents, fares, fees, loan repayments, loan interest rates, or other charges on loans.

(c). Promulgate necessary rules and regulations and provide for their enforcement by or with the assistance of the Parties to accomplish the purposes of this Agreement.

(d). Accept gifts, grants, assistance funds, or bequests and use the same for the purposes of this Agreement. The County Authority may apply for and accept grants, loans, or contributions from any source authorized by law. The County Authority may do anything within its power in accordance with applicable law to secure the grants, loans, or other contributions.

(e). Respond for any liabilities that might be incurred through performance of this Agreement and insure against any such liability.

(f). Adjudicate disputes or disagreements, the effects of the failure of a Party to pay its share of costs and expenses, and the rights of the other Party in such cases.

(g). Engage auditors to perform independent audits of the financial statements and other activities of the County Authority.

(h). Invest surplus funds or proceeds of grants, gifts, or bequests and adopt an investment policy in connection with the funds or proceeds.

(i). Employ legal, financial, and technical experts, other officers, agents, or employees, and accept voluntary provision of such services and function from donor individuals and entities.

(j). Study, develop, and prepare the reports or plans that the County Authority considers necessary to further the purposes of this Agreement and monitor and evaluate performance under this Agreement.

(k). Purchase and maintain insurance to protect against losses incurred or realized by the County Authority in the discharge of its functions.

(l). Purchase and maintain insurance to protect members of the County Authority Board or officers or employees of the County Authority from personal loss or accountability from liability asserted by any Person for any acts or omissions of the County Authority.

(m). Secure surety bonds for officers, employees, or contractors of the County Authority designated by the County Authority to directly handle and process state, federal, and other funds received by the County Authority.

**Section 5.03. General Powers Under Land Bank Act.** The County Authority may exercise all of the powers, duties, functions, and responsibilities of an authority under the Land Bank Act, including, but not limited to, each of the following:

(a). Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b). Sue and be sued in its own name and plead and be impleaded, including, but not limited to, defending the County Authority in an action to clear title to property conveyed by the County Authority.

(c). Borrow money and issue bonds and notes according to the provisions of the Land Bank Act.

(d). Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, interlocal agreements under Act 7, for the joint exercise of powers under the Land Bank Act.

(e). Solicit and accept gifts, grants, labor, loans, and other aid from any person, or the federal government, the State, or a political subdivision of the State or any agency of the federal government, the State, a political subdivision of the State, or an intergovernmental entity created under the laws of the State or participate in any other way in a program of the federal government, the State, a political subdivision of the State, or an intergovernmental entity created under the laws of the State.

(f). Procure insurance against loss in connection with the property, assets, or activities of the County Authority.

(g). Invest money of the County Authority, at the discretion of the County Authority Board, in instruments, obligations, securities, or property determined proper by the County Authority Board and name and use depositories for County Authority money.



(h). Employ legal and technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the County Authority. The County Authority shall determine the qualifications, duties, and compensation of those it employs. The County Authority Board may delegate to 1 or more members, officers, agents, or employees any powers or duties it considers proper.

(i). Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, engineers, accountants, and auditors for rendering professional financial assistance and advice payable out of any money of the County Authority.

(j). Study, develop, and prepare the reports or plans the County Authority considers necessary to assist it in the exercise of its powers under the Land Bank Act and to monitor and evaluate progress under the Land Bank Act.

(k). Enter into contracts for the management of, the collection of rent from, or the sale of real property held by an authority.

(l). Do all other things necessary or convenient to achieve the objectives and purposes of the County Authority under the Land Bank Act or other laws that relate to the purposes and responsibility of the County Authority.

**Section 5.04. Bonds or Notes.** The County Authority shall not issue any type of bond in its own name except as authorized by the Land Bank Act or Act 7. The County Authority shall not possess the power to in any way indebted a Party. Bonds or notes issued by the County Authority are the debt of the County Authority and not of the Parties. Bonds or notes issued by the County Authority are for an essential public and governmental purpose. Pursuant to Section 147(7) of Act 7 and the Land Bank Act, bonds or notes, together with the interest on the bonds or notes and income from the bonds or notes, are exempt from all taxes by the State or any political subdivision of the State.

**Section 5.05. Casino Development Prohibited.** The County Authority shall not assist or expend any funds for, or related to, the development of a casino.

**Section 5.06. Tax Limitation.** Pursuant to Section 7(3) of Act 7 and Section 4(7) of the Land Bank Act, the County Authority shall not levy any type of tax or special assessment.

**Section 5.07. Condemnation Prohibited.** The County Authority is prohibited from exercising the power of eminent domain or condemning property under Section 4(8) of the Land Bank Act.

**Section 5.08. Limitation on Political Activities.** The County Authority shall not spend any public funds on political activities. This section is not intended to prohibit the County Authority from engaging in activities authorized under the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282.

**Section 5.09. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Agreement is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under Act 7 or other law.

**Section 5.10. Non-Discrimination.** The County Authority shall comply with all applicable law prohibiting discrimination. The County Authority shall not fail or refuse to hire recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. The County Authority shall not limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. The County Authority shall not provide services in a manner that discriminates against a person with respect to employment, compensation, or a term, condition, or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to receive services from the County Authority.

**ARTICLE VI**  
**SPECIFIC POWERS OF THE COUNTY AUTHORITY**

**Section 6.01. Acquisition of Property.** Except as otherwise provided in this Agreement and under the Land Bank Act, the County Authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise real or personal property, or rights or interests in real or personal property on terms and conditions and in a manner the County Authority considers proper. Real property acquired by the County Authority by purchase may be by purchase contract, lease purchase agreement, installment sales contract, land contract, or otherwise. The County Authority may acquire real property or rights or interests in real property for any purpose the County Authority considers necessary to carry out the purposes of the Land Bank Act.

**Section 6.02. Deeds In Lieu of Foreclosure.** The County Authority may accept from a Person with an interest in a tax delinquent property or Tax Reverted Property a deed conveying that Person's interest in the property in lieu of the foreclosure or sale of the property as provided under Section 6 of the Land Bank Act.

**Section 6.03. Expedited Quiet Title and Foreclosure Actions.** The County Authority may initiate an expedited quiet title and foreclosure action to quiet title to interests in real property held by the County Authority as provided under Section 9 of the Land Bank Act.

**Section 6.04. Execution of Legal Documents Relating to Property.** All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of the County Authority, including agreements to acquire or dispose of real property, may be approved by and executed in the name of the County Authority.

**Section 6.05. Holding and Managing Property.** The County Authority may hold and own in its name any property acquired by the County Authority or conveyed to the County Authority by the State, a Foreclosing Governmental Unit, a local unit of government, an intergovernmental entity created under the laws of the State, or any other public or private person, including, but not limited to, Tax Reverted Property and property with or without clear title. The County Authority may, without the approval of a local unit of government in which property held by the County Authority is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property it holds or owns. All real property held by the County Authority shall be inventoried and classified by the County Authority according to title status of the property and suitability for use. The County Authority may take or perform the following with respect to property held or owned by the County Authority:

(a). Grant or acquire a license, easement, or option with respect to property as the County Authority determines is reasonably necessary to achieve the purposes of this Agreement and the Land Bank Act.

(b). Fix, charge, and collect rents, fees, and charges for use of property under the control of the County Authority or for services provided by the County Authority.

(c). Pay any tax or special assessment due on property acquired or owned by the County Authority.

(d). Take any action, provide any notice, or institute any proceeding required to clear or quiet title to property held by the County Authority in order to establish ownership by and vest title to property in the County Authority, including, but not limited to, an expedited quiet title and foreclosure action under Section 9 of the Land Bank Act.

(e). Remediate environmental contamination on any property held by the County Authority.

**Section 6.06. Civil Action to Protect County Authority Property.** The County Authority may institute a civil action to prevent, restrain, or enjoin the waste of or unlawful removal of any property from Tax Reverted Property or other real property held by the County Authority, as provided under Section 11 of the Land Bank Act.

**Section 6.07. Environmental Contamination.** If the County Authority has reason to believe that property held by the County Authority may be the site of environmental contamination, the County Authority shall provide the Michigan Department of Environmental Quality with any information in the possession of the County Authority that suggests that the property may be the site of environmental contamination, as required under Section 10 of the Land Bank Act. The County Authority shall cooperate with the Michigan Department of Environmental Quality with regard to any request made or action taken by the Department under Section 10 of the Land Bank Act.

**Section 6.08. Transfer of Interests in Property by County Authority.** Pursuant to Section 7 of the Land Bank Act, on terms and conditions, and in a manner and for an amount of consideration the County Authority considers proper, fair, and valuable, including for no monetary consideration, the County Authority may convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights or interests in property in which the County Authority holds a legal interest to any public or private person for value determined by the County Authority.

**Section 6.09. Disposition of Proceeds.** Any proceeds from the sale or transfer of property by the County Authority shall be retained by the County Authority, or expended or transferred by the County Authority as provided under the Land Bank Act.

**Section 6.10. Collective Bargaining.** The County Authority shall have the right to bargain collectively and enter into agreements with labor organizations. The County Authority shall fulfill its responsibilities as a public employer subject to 1947 PA 336, MCL 423.201 to 423.217 with respect to all its employees.

**Section 6.11. Municipal Employee Retirement System.** To the extent permitted under Michigan law, the County Authority Board may elect to become a participating municipality on behalf of County Authority employees but only pursuant to Section 2c(2) of the Municipal Employees Retirement Act of 1984, 1984 PA 427, MCL 38.1501 to 38.1558.

## **ARTICLE VII**

### **BOOKS, RECORDS, AND FINANCES**

**Section 7.01. County Authority Records.** The County Authority shall keep and maintain at the principal office of the County Authority, all documents and records of the County Authority. The records of the County Authority, which shall be available to the Parties, shall include, but not be limited to, a copy of this Agreement along with any amendments to the Agreement. The records and documents shall be maintained until the termination of this Agreement and shall be returned to any successor entity or, if none, to the Treasurer or any successor agency of the Treasurer.

**Section 7.02. Financial Statements and Reports.** The County Authority shall cause to be prepared, at County Authority expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows, and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm. A copy of the annual financial statement and report shall be filed with the Michigan Department of Treasury, or any successor agency, and shall be made available to each of the Parties.

**Section 7.03. Audits.** The County Authority shall provide for the conduct of audits in accordance with section 6 to 13 of the Budget Act, which shall be made available at the request of any Party. The County Authority Board shall establish a dedicated audit committee of the County Authority Board for the purpose of overseeing the accounting and financial reporting processes of the County Authority and audits of its financial statements. The County Authority shall establish specific duties and obligations of the audit committee and standards and qualifications for membership on the audit committee. The County Authority may require at least one member to be specifically knowledgeable about financial reports.

**Section 7.04. Freedom of Information Act.** The County Authority shall be subject to and comply with the FOIA.

**Section 7.05. Uniform Budgeting and Accounting Act.** The County Authority shall be subject to and comply with the Budget Act. The Executive Director annually shall prepare and the County Authority Board shall approve a budget for the County Authority for each Fiscal Year. Each budget shall be approved by the September 1<sup>st</sup> immediately preceding the beginning of the Fiscal Year of the County Authority.

**Section 7.06. Deposits and Investments.** The County Authority shall deposit and invest funds of the County Authority, not otherwise employed in carrying out the purposes of the County Authority, in accordance with an investment policy established by the County Authority Board consistent with laws and regulations regarding investment of public funds.

**Section 7.07. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the County Authority Board.

**Section 7.08. Performance Objectives.** Each Fiscal Year, the Executive Director shall prepare objectives for the County Authority's performance for review and approval by the County Authority Board.

**Section 7.09. Annual Reports.** Not less than annually, the County Authority shall file with the Treasurer, the County Board, and with the State Authority a report detailing the activities of the County Authority, and any additional information as requested by the Treasurer, the County Board, or the State Authority.

**ARTICLE VIII**  
**DURATION OF AGREEMENT**

**Section 8.01. Duration.** This Agreement and the County Authority shall commence on the Effective Date and shall continue in effect for an initial term of 5 years and after that until terminated by joint action of the Parties and the County Board or withdrawal by a Party under Section 8.02.

**Section 8.02. Withdrawal by Either Party.** Either Party may withdraw from this Agreement after the initial term, upon six (6) months notice in writing to the County Authority as provided under Section 9.01. The Treasurer shall withdraw from this Agreement under this section if required to withdraw under the terms a resolution adopted by the County Board.

**Section 8.03. Disposition upon Termination.** As soon as possible after termination of this Agreement, the County Authority shall finish its affairs as follows:

(a). All of the County Authority's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the County Authority and distribution of its assets shall be paid first.

(b). The remaining assets, if any, shall be distributed to any successor entity, subject to approval by the Parties. In the event that no successor entity exists, the remaining assets shall be distributed to the Genesee County or as otherwise agreed by the Parties.



## **ARTICLE IX**

### **MISCELLANEOUS**

**Section 9.01. Notices.** Any and all correspondence or notices required, permitted, or provided for under this Agreement to be delivered to any Party shall be sent to that Party by first class mail. All such written notices, including any notice of withdrawal under Article VIII, shall be sent to each other Party's signatory to this Agreement, or that signatory's successor. All correspondence shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. Any notice of withdrawal shall be sent via certified mail.

**Section 9.02. Entire Agreement.** This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter of this Agreement. It is further understood and agreed that the terms and conditions of this Agreement are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter of this Agreement, except as expressly stated in this Agreement.

**Section 9.03. Interpretation of Agreement.** The Parties intend that this Agreement shall be construed liberally to effectuate the intent and purposes of this Agreement and the legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance of each and every act and thing authorized by this Agreement and the Land Bank Act. All powers granted to the County Authority under this Agreement and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 9.04. Severability of Provisions.** If any provision of this Agreement, or its application to any Person, Party, or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons, Party, or circumstances is not affected but will be enforced to the extent permitted by law.

**Section 9.05. Governing Law.** This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under the laws of the State of Michigan without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its plain and fair meaning, and not construed strictly for or against any Party.

**Section 9.06. Captions and Headings.** The captions, headings, and titles in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning and or to be interpreted as part of this Agreement.

**Section 9.07. Terminology.** All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 9.08. Cross-References.** References in this Agreement to any Article include all sections, subsections, and paragraphs in the Article, unless specifically noted otherwise. References in this Agreement to any Section include all subsections and paragraphs in the Section.

**Section 9.09. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Agreement, the matter under dispute, unless resolved between the Parties, shall be submitted to the courts of the State of Michigan. Any and all claims against this State must be brought and maintained in the Court of Claims in Ingham County notwithstanding Section 6421 of the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.6421.

**Section 9.10. Amendment.** This Agreement may be amended or an alternative form of this Agreement adopted only upon written agreement of all Parties.

**Section 9.11. Effective Date.** This Agreement shall become effective as of the Effective Date.

This Agreement is executed by the authorized representatives of the Parties on the date(s) indicated below:

**MICHIGAN LAND BANK FAST TRACK  
AUTHORITY,**  
a Michigan public body corporate and politic

By: \_\_\_\_\_

\_\_\_\_\_  
Its: Chairperson

Date: July \_\_\_, 2004

By: \_\_\_\_\_

Daniel T. Kildee  
**TREASURER, COUNTY OF GENESEE**

Date: July \_\_\_, 2004

## **LAND BANKS AND THE POSSIBILITY OF A DETROIT LAND BANK FAST TRACK AUTHORITY**

A "land bank" is a governmental entity that is responsible for the maintenance and return to productive use of vacant, abandoned and tax-delinquent government-owned, surplus properties.

### **Local Land Bank Fast Track Authorities**

- In order to establish a local land bank fast track authority (an "Authority") as authorized by PA 258 of 2003, the Authority must enter into an intergovernmental agreement with the Michigan State Land Bank Fast Track Authority.
- A local jurisdiction may partner with another local jurisdiction (e.g., city and county), pursuant to the Urban Cooperation Act, to form a more comprehensive Authority.
- An Authority is accorded the right to hold and manage property (sale, lease, renovation, demolition, etc.). In addition to acquiring tax reverted properties, an Authority could purchase property, could receive property as a gift in lieu of back taxes and penalties from delinquent property owners, or could receive property by transfer from another governmental unit.
- The legislation allows an Authority to convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of its property "in a manner and for an amount of consideration an Authority considers proper, fair, and valuable, including for no monetary consideration."
- An Authority may borrow money, issue bonds, solicit grants, and retain proceeds it receives from the sale or rental of property in order to execute its responsibilities.
- A city can lend a newly established Authority funds, and the legislation provides for the reimbursement of such funds from the revenues of the Authority.
- While an Authority holds (or "banks") property, that property is exempt from all taxation by the State or any of its political subdivisions.
- Separate acts (PA 263 and PA 260) provide a mechanism for the Authority to receive 50% of property taxes on Authority-sold property for five years after the Authority's disposition of the property. The remaining 50% is distributed in pro rata shares to the entities that would otherwise receive the tax revenue.
- PA 258 establishes a process by which title clearance and foreclosure proceedings may be accelerated. It is questionable whether this will address the existing title concerns discussed below.
- The Fast Track Land Bank legislation does not:
  - authorize the Authority to condemn property or exercise eminent domain;
  - give the Authority any power to levy taxes or special assessments;
  - allow the Authority to assist or expend any funds for the development of a casino;
  - generate any increase on taxes on subject property; or
  - exempt the property or the Authority from local zoning and land use laws.

### Michigan Land Bank Example: Genesee County

- Genesee County established a "Land Reutilization Council" that will soon become a local land bank fast track authority (involving Genesee County as well as Flint and various other cities, townships, etc). The disposition of properties by the Genesee County Land Bank is based upon a combination of three factors:
  - (1) The intended or planned use of the property (e.g., neighborhood revitalization, return to productive tax paying status, land assemblage for economic development, long term "banking" for future strategic uses, provision of financial resources for operations of the LRC).
  - (2) The nature and identity of the recipient of the property (e.g., qualified nonprofit development corporations, governmental entities, academic or religious institutions, individuals who own and occupy residential property for purposes of a "side lot" program).
  - (3) The impact of the property transfer on the short and long term neighborhood and community development plans (e.g., preservation of existing stable and viable neighborhoods, assisting in halting a neighborhood decline or deterioration).
- The Genesee County Land Bank operates according to its "Priorities, Policies and Procedures" including the following policies:
  - Policies Governing the Acquisition of Properties
  - Priorities Concerning the Disposition of Properties
  - Factors in Determining Consideration Due Upon Transfers
  - Side Lot Disposition Program
  - Residential Land Transfers
  - Commercial Land Transfers
  - Approval of Land Transfers
  - Requests from Non-Profit Organizations
  - Land Banking Policies
  - Transfer of Rehabilitated Properties
- The Genesee County Land Bank is guided by Genesee County Treasurer, Dan Kildee. Prof. Frank Alexander, a law professor at Emory University and the author of the forthcoming *Land Bank Authorities: Tools for Community Development*, is a consultant to the Genesee County Land Bank.
- The Genesee County Bank benefits from the city-county partnership. As the foreclosing governmental unit, Genesee County can "bundle" property at public auction to serve the purposes of the Land Bank and direct that property into the Land Bank after auction. Also, the revenue from sale of valuable foreclosed property can be directed into the Land Bank to support its activities rather than returning to the County's general fund. Currently, Wayne County is the foreclosing governmental unit for Detroit properties and, therefore, without a Detroit-Wayne partnership, newly foreclosed Detroit properties would not go into a Detroit land bank.

## Opportunities for a Detroit Land Bank Fast Track Authority

- The composition of the Authority is left up to the local jurisdiction (although there must be an odd number of members). The Authority may be made up of a small or large number of appointees and may be complemented by an Advisory Board or act alone. In forming the Authority, the local jurisdiction has the opportunity to set appropriate limits on the powers of the Authority (e.g., the local jurisdiction may specifically reserve or condition certain powers upon the approval of the local jurisdiction).
- Nothing in the legislation requires the Authority to place all City-owned surplus property within the Authority's control. The City may determine which land should be controlled by the Authority and which land (e.g., downtown, riverfront) is better managed under the control of another City-sponsored entity (e.g., P&DD or DEGC).
- The establishment of an Authority would allow the City to hold land in anticipation of development without incurring substantial liabilities (e.g., tax, environmental).
- Anecdotal evidence suggests a current lack of transparency and consistency in the disposition of City-owned properties to individuals and organizations. The Land Bank could establish policies and procedures to address such concerns.
- The establishment of an Authority would allow the City to dispose of land to individual property owners, and nonprofit and for profit groups, without going through cumbersome proceedings, while still fulfilling the function of protectors of the public treasury and principal land use regulators.
- The Authority could provide for (whether internally or through subcontracting) oversight of and assistance to recipients of Authority property so that they can effectively convert the property for the betterment of the community. Assistance could include title work, demolition, additional land assembly (not Authority-owned land), financing, etc.
- The land bank model can be used to engage in strategic thinking/planning to ensure that the property is developed consistent with the City's plan for the community. In addition, it can be used to ensure that the appropriate individuals and organizations receive the property so that the property will not return to tax-reverted status nor become or continue to be a blight on the community. If an Authority is intended to merely expedite the transfer of property (which could be done without an Authority), it may not be worth the effort.
- "Land banks can benefit urban schools, improve tax revenues, expand housing opportunities, remove public nuisances, assist in crime prevention and promote economic development." (*Policy Memorandum: The Multiple Benefits of Land Banking and Comprehensive Land Bank Planning for Detroit*, Prepared for MOSES by Kirwan Institute for the Study of Race and Ethnicity, Apr. 2004)
- There is an opportunity to leverage the City properties with State and County properties and to strategically package properties for development.

### **Obstacles for a Detroit Land Bank Fast Track Authority**

- Regardless of the efforts made by legislators to “clear” the title on tax-reverted properties, title companies consistently avoid entering into this market. It is difficult and often expensive to get title insurance on tax-reverted properties. Failure to receive title insurance inhibits receipt of rehabilitation or construction financing and inhibits subsequent sales of the property. Organizations without a history of dealing with such property and without sufficient capacity have major challenges in dealing with this property. It is not unusual for it to take two or more years for any building or rehabilitation to take place on the property.
- The average individual or organization will face significant challenges if they are deeded tax-reverted property without any guidance as to how to clear title, how to deal with squatters, the need for property insurance, and the need to pay property taxes. Existing community development corporations have only recently begun to be able to effectively handle the unique challenges associated with tax-reverted property.
- If a Detroit authority is created without the involvement of Wayne County, the City will not have any new access to the property the County is receiving via the property tax foreclosure process.
- Although the City owns a large number of surplus parcels (some estimates are as many as 40,000) it would be unusual for these to include a substantial number of contiguous parcels. Traditional development requires strategic land assemblage. Individual residential parcels have limited value in the marketplace.
- Anecdotal evidence suggests that when large numbers of government-owned tax-reverted parcels come on the market (whether via auction or some government-sponsored program) low-end speculators are a significant percentage of the purchasers. These speculators generally have no intent to improve the property or to return it to productive use. Often, these same properties return to the tax-reverted property rolls.
- The intergovernmental agreement necessary to form an Authority would require the consent of both the Mayor and the City Council.

### **Current Detroit Activity Promoting a Local Land Bank Fast Track Authority**

- MOSES, with the assistance of Dr. John Powell, is currently developing a proposed land bank model based on already identified principles and priorities. After meetings with public leaders and with the general public during the summer months, they intend to unveil the MOSES approved Land Bank model at their September 26, 2004 mass meeting and seek a commitment from City leadership at that time
- Community Development Advocates of Detroit's (CDAD) sponsored a University of Michigan Urban Planning graduate student report detailing the desired policies/procedures of a Detroit Land Bank Authority. CDAD is currently drafting a

position paper in support of a Detroit land bank and will release that paper to elected officials and the public within the next month.

- Wayne County Commissioner Bernard Parker has expressed his intention to create a Wayne County Land Bank Authority modeled, at least in part, after the Genesee County Land Bank Authority. Commissioner Parker is in the initial stages of drafting the necessary ordinances and engaging in discussions with the Wayne County Treasurer and others.
- The National Vacant Properties Campaign has announced its intention to host a national "Land Banking" conference in Michigan in late 2004 or early 2005. This would be an excellent opportunity to highlight a collaborative Detroit process for establishing a land bank. The National Vacant Properties Campaign is a project of Smart Growth America, the International City/County Management Association, the National Trust for Historic Preservation, and the Local Initiatives Support Corporation (LISC). The campaign is funded by the Fannie Mae Foundation and the US Environmental Protection Agency.

#### **Forming a Detroit Land Bank Fast Track Authority**

Given the level of public interest in the disposition of surplus City-owned properties, the City would benefit from an inclusionary process reviewing the possibility of establishing a Detroit Land Bank. All scholarship on successful land banks in other jurisdictions highlights the importance of relationships with and inclusion of community development organizations in the jurisdiction's land disposition. Detroit has a highly active and capable CDC community that could contribute to the success of a Detroit Land Bank. Ultimately, the decision to form a land bank and the structure of any land bank would be a decision of the Mayor and the City Council. The inclusion of other parties from the beginning will achieve a result that is supported by the affected parties and that will be able to be successfully implemented.





# CDAD

COMMUNITY DEVELOPMENT ADVOCATES OF DETROIT

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## **Publicly Owned Land for Community Development**

**A Position Paper on Tax Reverted Property Disposition Policies in Detroit**

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**Community Development Advocates of Detroit**

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**Adopted: February 2003**

## EXECUTIVE SUMMARY

### *Introduction*

Community Development Advocates of Detroit (CDAD) is a citywide, non-profit, trade association for Community Development Corporations (CDCs). CDAD's 100 plus member organizations have a strong interest in policies involving the disposition and ultimate redevelopment of tax delinquent real properties in Detroit. The core activity of most member CDCs involves the redevelopment of existing property and vacant land in Detroit neighborhoods for residential, commercial, and sometimes industrial uses. During the most recent five-year period, Detroit CDCs have been responsible for over \$110 million in redevelopment efforts.

This document represents the viewpoints of these organizations and is intended to encourage policies that will facilitate their activities and mission to improve the quality of life and opportunities throughout Detroit.

This position paper was produced to address concerns with current methods of disposing of tax reverted properties in Detroit. It was also produced in part as a produced in response to legislation introduced in 2001 to establish State and Metropolitan Land Bank Authorities. These authorities would receive tax reverted property and, in theory, have the capability to expedite action to clear title and prepare parcels for sale. While the original legislation is no longer pending, a new version has been introduced to the State Senate in 2003. Regardless of legislative action, reform of the current system of disposing of tax reverted property is needed. Accordingly, the purpose of this paper is to present an analysis of issues related to tax reverted property disposition policies and identify outcomes that should be produced by new legislation and programs. It should assist policy makers to develop legislation and programs that will effectively improve the way in which tax delinquent property is returned to a functioning use that will both generate tax revenues and enhance the area where it is located. The establishment of such programs will greatly impact the redevelopment efforts of CDAD's member organizations.

### *Background*

CDAD's Advocacy Committee has studied *land bank* programs in other states and assessed their utility in Detroit. A land bank program in Cleveland Ohio has achieved great success and many program components may be applicable in Detroit, although local success will be based on the ability counteract the obstacles entwined within the existing processes. It appears probable that the establishment of a Land Bank Authority, or a similar type of entity or program, could benefit the city and increase efficiency in the community development industry. However, it is also possible that modifications to the existing land disposition process could greatly improve the performance of entities involved in the redevelopment of tax reverted properties in Detroit.

### *Recommendations*

CDAD believes that an effective tax reverted property disposition program must include the following essential elements.

First, it must serve a public purpose and have a strong public involvement component. Public involvement should be achieved through open meetings and forums for public comment, as well as by annual reports. Furthermore, community stakeholders should, at minimum, have the responsibility of reviewing and commenting on proposed development plans for parcels sold

through any property disposition program. CDAD recommends that the review process be administered using the Detroit Community Reinvestment Strategy (CRS) Neighborhood Cluster framework and communication be facilitated through the CRS Cluster Boards.

Secondly, any new programs must have characteristics that constitute an improvement over the existing process and be capable of producing measurable outcomes. The following outcomes are each considered vital to the success of new programs:

- a) **Expeditious Sales:** property sales must occur expeditiously, and on a timetable nearly equivalent to a private transaction;
- b) **Title:** title complications due to tax reversion must be resolved so as to produce insurable title;
- c) **Nominal Prices:** property sales for nominal prices must be authorized, assuming that proposed development use serves a public purpose;
- d) **Consolidation/Co-ordination of Entities:** to the extent possible, tax reverted properties available for sale should be sold through one governmental entity, not many (state, county and local jurisdictions and authorities); or, at a minimum, land sale activity should be coordinated amongst the various entities;
- e) **Planning:** development proposals must be in accordance with the City's adopted plans and policies, as well as other community-based plans, if a land sale is to occur;
- f) **Anti-Speculation:** land speculation should be prevented through the use of clearly defined development agreements that stipulate development obligations, time expirations, and reversionary rights;
- g) **Transition:** property sales currently underway within the existing process should be transitioned into any new disposition process without the loss of development rights for projects to which the city is committed; and
- h) **Funding:** operating funds needed to implement new property disposition programs should be clearly identified and earmarked.

### *Conclusion*

This document examines the issues surrounding tax reverted property disposition policies in Detroit and outlines the position of CDAD concerning these issues from the perspective of the community development industry. Timely access to publicly owned land is of paramount importance to the productivity of CDAD's member CDCs. These groups are the driving force behind the redevelopment of vacant land and property throughout Detroit. Their experience working with existing programs and willingness to take on difficult development sites and projects provides them with a unique and important perspective that must be considered and addressed.

CDAD urges public officials and policymakers to address the issues and recommendations presented in this document when considering legislation and programs that will alter tax reverted property disposition policies. Integrating these recommendations into new policies and processes will greatly benefit community development practices and dramatically boost the revitalization of Detroit.

## **CDAD — Community Development Advocates of Detroit**

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### **CDAD Position Statement on Land Bank Authorities June 2004**

Community Development Advocates of Detroit (CDAD) is a citywide, non-profit, trade association for community development corporations (CDCs). CDAD's 100-plus member organizations have strong interest and investment in policies involving the disposition and ultimate redevelopment of tax delinquent and surplus real properties in Detroit. The core activity of most member CDCs involves the redevelopment of existing property and vacant land in Detroit neighborhoods for residential, commercial, and sometimes industrial uses. During the past four years CDAD members have been responsible for over \$250 Million in Detroit redevelopment efforts.

**Policy Position:** CDAD supports the creation of a city and/or county land bank authority that is carefully crafted to result in the improved disposition of and planning for the tax-delinquent and surplus properties now held or to be acquired by local government. Thousands of tax-delinquent and surplus properties are contributing to the blight and abandonment in core neighborhoods of Detroit. Vacant and unused properties are currently a liability to Detroit instead of living up to their potential as an asset to the community. The return of tax-delinquent and surplus properties to productive use will both generate tax revenues and enhance the area where the property is located.

CDAD believes that the existing inventory of surplus government-owned property, the recent changes to Michigan law, and the commitment of dedicated community development organizations in and around Detroit make a land bank authority the best course of action for the city and/or county. The creation of a land bank authority consistent with the necessary elements provided below will improve the current system by:

- increasing accountability for property sales by consolidating this function in a single purpose entity,
- elevating the property sales function to an appropriate level of importance within local government,
- providing the possibility of new sources of funding for the infrastructure required to effectively process and monitor property sales – sources which likely would not be available to the local unit of government itself,
- improving the access to government-owned surplus property, and
- reducing the backlog of government-owned surplus property in Detroit.

The experience of Genesee County and the City of Flint in setting up a land bank authority can provide insight and guidance as to the possibility of a successful land bank authority and the methods for implementation of a land bank authority.

CDAD presents below several necessary elements to be recognized in the structuring and operation of a Detroit land bank authority. Integrating these recommendations into new policies and processes will greatly benefit community development practices and dramatically boost the revitalization of Detroit.

**Necessary Elements of a Land Bank Authority**

***Planning Focused:*** A land bank authority should be created to serve a planning and redevelopment purpose.

- The inherent relationship between publicly owned property and public purpose must be recognized in the land bank authority's decision-making procedures.
- The conditions that caused the neighborhood disinvestment that has resulted in tax delinquent and abandoned property should be recognized and avoided in future development/disposition decisions.
- Priority consideration should be given to development proposals that will contribute to the public good and sustainability of urban neighborhoods.
- Development proposals for land bank authority property should be in accordance with the City's master plan, the authority's adopted plans and policies, and other community-based plans.

The challenge to the land bank authority will be to balance thoughtful community-based planning with expeditious disposition of property. Those property sales consistent with a community-based plan should occur as expeditiously as possible. The land bank authority must articulate clear standards for accepting/rejecting development proposals and, as discussed below, clear mechanisms for efficient and effective community input. A reasonable standard for disposition would be no longer than six months for large projects and sixty days for smaller projects.

***Recognition of Role of Community Development Industry:*** Presence of a strong public involvement component is critical to the success of all urban policy. Land bank policies will directly impact residents and stakeholders in the neighborhoods where the land bank authority holds property. CDAD strongly recommends that a representative of the community development industry be placed on any land bank authority. At a minimum, any land bank authority must create an "advisory board" upon which community development corporations are well-represented from which to gather the input of these significant contributors to the redevelopment of tax-reverted and surplus property. Representation on an advisory board should adequately reflect all geographic regions of the city.

***Anti-Speculation Provisions Essential:*** Property should be sold by the authority only where the buyer has demonstrated a valid development plan and the capacity to accomplish that plan. Land speculation should be prevented through the use of clearly defined and enforced development agreements and/or conveyance documents that stipulate development obligations, time expirations, and reversionary rights.

***Open Meetings and Community Input:*** The land bank authority must comply with applicable open meeting laws. In addition, the land bank authority should make every effort to make its process and its results as open and available as possible. The community is acutely aware of the properties left vacant and abandoned in their neighborhoods – they should also be aware of the plans for the redevelopment of those properties and the organizations to be held accountable for responsibly redeveloping Detroit.

According to state law, property sales by a land bank authority must comply with zoning and other local ordinances. Given this, requiring additional public notices and hearings for every property transaction would be unduly burdensome on the process. Rather, CDAD recommends that any property transaction involving a significant number of properties or involving a development plan that contemplates a significant change to the existing or historical use of the property be publicly noticed and opportunity for public comment be provided. Where a plan for property has already had opportunity for public comment through a zoning hearing or other required public hearing, this hearing could be omitted. Every effort should be made to communicate such notices and opportunities to be heard to those organizations within the applicable development area who have been participating in the area's redevelopment. ,

Finally, any authorizing agreement for a land bank authority should provide for an annual report of the land bank authority. The annual report should include, at a minimum, number of properties applied for, pending, and sold, listing of properties and purchases, status of development/improvements on properties sold, and an analysis of the authority's spending and receipts. The public – including elected officials, community organizations, and individuals – should have an opportunity to review the activities of the land bank authority and its successes and challenges.

***Prices Driven by Development Goals:*** The authority's price-setting mechanism must be transparent to buyers. In order to encourage the development of vacant, residential-zoned properties, CDAD recommends that a ceiling (based on square footage or per foot of street frontage) be set for all authority-owned vacant, residential-zoned property. CDAD encourages the authority to maintain the flexibility to lower the price below the minimum if the lower price will allow for a beneficial development that would not otherwise be possible without the lower price. The prices for dwellings and non-residential properties should recognize the additional development costs associated with surplus government-owned land and the long-term value to the community of the proposed development.

CDAD does not oppose the application of necessary administrative fees to land prices but strongly recommends that the dominant priorities in determining the amount of consideration be to facilitate development and, where appropriate, to ensure that the property is dedicated for affordable housing.

***Priorities for Disposition:*** Where there is more than one party interested in one or more parcels of authority-owned property and each party has a development plan and capacity consistent with the authority's adopted plans and policies, CDAD believes that the nonprofit developer should be preferred over a for-profit developer in determining the disposition of the property.

***Publicly Available and Complete List of Available Properties:*** CDAD believes that developers and individuals should not have to struggle to determine the ownership and availability of government-owned property. Once it is determined which property the land bank authority will hold, the land bank authority should make every effort to make the list of its available properties an accessible document to all who may request it – this should include publication to an authority website.

When a large number of parcels become available through the authority, CDAD recommends that the authority consider some form of "request for proposal" process be established so that the "first in" or, alternatively, the "highest bidder," is not automatically awarded the property before a developer that may have a preferred use for the property.

***Coordination Among and Within Governments:*** The Genesee County/Flint experience suggests that the ideal land bank authority combines county government with municipal governments. CDAD strongly recommends the consideration of a joint Wayne County-City of Detroit land bank authority to maximize the options under Public Act 123 of 1999 and the recent state land bank fast track authority legislation. Where this is not possible, CDAD recommends the coordinated assembly and sale of properties held by the County and City. The authority should also, where possible, coordinate the assembly and sale of properties with the state land bank fast track authority.

In addition, CDAD recommends coordination between the authority and departments within the City (e.g., P&DD, the Planning Commission, BZA, ONCR, Buildings & Safety Engineering) with regard to planning, zoning, permitting, etc.

***Recognition of Significant Title Problems:*** The tax-foreclosed and surplus properties held by local authorities are rife with title problems. The land bank authority must prioritize among the properties to

begin to "clear title" to those properties most likely to be developed as funds become available. Where title has not been "cleared" by the land bank authority, the authority must provide commitment letters, purchase/option agreements, or some other means for purchasers to be assured their privately-funded title work will not be in vain. Dialogue and partnership with the title insurance industry is needed to arrive at a solution to the serious problem of uninsurable title.

The provision of commitment letters and/or purchase/option agreements should also be provided for where the buyer requires additional work to finalize zoning, financing, or other necessary preliminary steps to make the development viable.

***Respect for Existing Development Agreements:*** Upon the creation of a land bank authority, any property sales already underway should be transitioned into the new disposition process without the loss of development rights for projects to which the City and/or County has committed to in the previous 2-3 years.

CDAD and its members encourage the sincere consideration of a land bank authority in order to further advance the redevelopment of Detroit. CDAD and its members will be willing and available to contribute to any discussions regarding a possible land bank authority and the methodologies for implementation and operation. Please direct any questions regarding this position statement to Barbara Washington Bass (CDAD Executive Director) or Donna Williams (CDAD Board Chairperson).

**MOSES Land Bank Committee**  
**Draft Principles/Priorities for Detroit Land Bank**  
**May25, 2004**

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The members of MOSES have witnessed the detrimental effects of abandoned properties and vacant land on the neighborhoods surrounding their churches and their homes. Detroit churches have watched vacant and abandoned properties reduce property values in surrounding areas, depress property tax revenues, create blight, stifle economic development, increase crime, create public safety hazards, and accelerate disinvestment in Detroit neighborhoods. MOSES seeks to encourage the City of Detroit to begin to remedy this situation by establishing a land bank.

Land bank authorities can be established in order to address urban blight and promote redevelopment in an efficient and expedient manner. A land bank generally involves acquisition of abandoned sites, tax foreclosed properties, or properties obtained by other means. The land is then transferred to a third party to redevelop or improve the properties. Land banks attempt to unlock the potential value of properties and sites, with the goal of returning them to productive use.

M.O.S.E.S. believes a land bank in Detroit is critical to reducing the excessive number of abandoned parcels and encouraging revitalization in the City of Detroit. The land bank can be a powerful tool to remove blight and promote the beautification of Detroit's neighborhoods. If a Detroit Land Bank is to be equitable and successful, adherence to the following principles and priorities is critical:

**Planning-Driven Land Bank Program:**

A land bank's purpose should be to encourage the redevelopment of the city in ways that improve the quality of life and add to the economic vitality of the city. The land bank should not be driven by short-term fiscal goals; but long-term community development goals. Its purpose should not be to make money through the sale of land, but return land to the tax rolls permanently in a manner that benefits neighborhoods and the City of Detroit. To maximize its potential, the land bank program requires planning and goals that extend beyond short-term fiscal benefits. The goal of the land bank should be community development, which will produce long-term fiscal benefits for Detroit.

**Shared Governance:**

The land bank executive board should be made up of a diverse group of stakeholders appointed by the Mayor and City Council. Stakeholder should include the business community, community development corporations and faith based community, for-profit development community, and real estate community. The executive and legislative branches of city government should have a role in the land bank's executive board and in land acquisition/disposition decisions within the land bank.



**Adequate Local Representation:**

The land bank executive board should encompass adequate local representation. At least two-thirds of the land bank executive board should be composed of residents of the City of Detroit. This policy does not preclude the land bank from seeking council and expertise from state and national experts in planning for the land bank.

**Integration with Public Safety:**

Research has shown that vacant properties adversely impact public safety in urban neighborhoods. By removing vacant properties from Detroit's neighborhoods, the land bank has the potential to significantly deter crime and implement design solutions to prevent crime. The Detroit land bank must work proactively to link the land bank program into local public safety issues and initiatives. Improving public safety must be a goal of the land bank program.

**Promoting Environmental Responsibility**

Eradicating vacant properties will also remove blight and promote the beautification of Detroit's neighborhoods. The reduction of urban blight will further encourage environmental responsibility and reinvestment in Detroit's neighborhoods. The land bank should act proactively in improving blighted areas within Detroit.

**Enhance Opportunities for Parks and Open Space:**

The land bank program should also strive to identify parcels of property to be improved as public open space, urban parkland, pocket parks or community gardens. Many parcels of vacant land that are unsuitable for development are ideal for use as open space in dense urban neighborhoods. This policy would be beneficial in improving open space amenities in Detroit's neighborhood and producing public health benefits for Detroit's citizens.

**Regional Integration:**

The land bank program should look for opportunities for regional cooperation in respect to planning and redevelopment. Planning for the land bank should be integrated with regional planning initiatives in Southeast Michigan. Land should be used for development that enhances opportunities for residents of Detroit, by connecting them to economic opportunities throughout the region.

**Land Disposition** – The land bank program should utilize the following guidelines in disposing of land:

- **Efficient land disposition.** A land bank should have procedures that allow for the prompt disposition of land for development projects.
- **Transparent systems of disposition.** The procedures for disposition of land should be publicly known, and the actual procedures should match the officially stated procedures.
- **Public input into disposition decisions.** The opportunity should be provided for public input in disposition decisions.

- **Conformity with recent plans.** The disposition of property should conform to existing neighborhood, city and regional plans. If plans for neighborhoods have not been recently updated, then the opportunity should be given for the community to update neighborhood plans in order to assure appropriate land bank development. Neighborhood plan should be consistent with city and regional plans and goals. Where there is inconsistency, there should be a presumption that city and regional plans will take priority.
- **Nominal prices for land.** The land bank should charge nominal prices for land in order to encourage the use of land for redevelopment. Disposition of land should be consistent with all principles of the Detroit Land Bank.
- **Disposition contingent on redevelopment agreement.** Disposition of land should be contingent on the recipient of land developing or improving the property within a specific time frame. Land should revert back to the land bank if development or improvement does not occur in time frame specified.
- **Consolidation of land disposition.** The land bank should hold and dispose of the tax-reverted property that the city currently owns as well as property currently becoming available through foreclosure or other means.
- **Prioritization of disposition.** The land bank program should give preference to church congregations, community groups and community development corporations to acquire small, neighboring or adjoining parcels of land bank property as long as such projects conform to existing neighborhood plans.

## **Summary of proposed policies and procedures for a Detroit land bank authority**

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The acquisition and disposition of properties by the Detroit land bank authority (LBA) shall be governed by the following policies and procedures:

### **Policies Governing the Inclusion of Properties**

In determining which, if any, properties shall be acquired by the LBA, consideration shall be given to the following factors:

- Requests from developers,
- Requests for undevelopable or side lot parcels,
- Properties that support strategic neighborhood development sites,
- Properties that form a part of a land assemblage development plan,
- Salvageable structures,
- Improved properties subject to demolition,
- Properties that will generate operating resources for the land bank,
- Any gifts of land within the City of Detroit; and
- Properties remaining after the County Treasurer's final auction.

### **Priorities Concerning the Disposition of Properties**

The disposition of **buildable**<sup>1</sup> properties shall be based upon the following factors:

- 1) The first factor involves the intended or planned use of the property.
- 2) The second factor considers the nature and identity of the transferee of the property.
- 3) The third factor addresses the impact of the property transfer on the short and long term neighborhood and community development plans.

The disposition of **non-buildable**<sup>2</sup> properties shall be based upon consideration of two factors:

- 1) The use of the property and the identity of the transferee
- 2) The disposition of any given parcel will be based upon an assessment of the most efficient and effective way to maximize the aggregate policies and priorities.

The **side lot** property disposition program shall include vacant and unimproved real property that is physically contiguous to owner-occupied residential property with not

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<sup>1</sup> Property that does not meet the minimum standard for development under Detroit's Municipal Code, 80.0400 and 80.0401

<sup>2</sup> Property that does meet the minimum standard for development under Detroit's Municipal Code, 80.0400 and 80.0401

less than a 75% common boundary line at the side or rear. The transfer of property for side will be based upon the following factors:

- 1) The intended or planned use of the property.
- 2) The nature and identity of the transferee of the property.
- 3) As a condition of transfer of a lot the transfer must enter into an agreement that the lot transferred will be consolidated with the legal description of the contiguous lot, and not subject to subdivision or partition within a five year period following the date of the transfer.
- 4) In addition, the transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the LBA.

### **Pricing Structure**

The land bank will maintain a fixed, nominal pricing system:

- \$1.00 for side lots
- \$1.00 for non-buildable lots
- \$10.00 per front foot for buildable lots plus an administrative fee

### **Approval of Land Transfers**

Once LBA staff has determined that a submitted transfer contract adheres to the priorities of disposition, LBA staff will evaluate the proposal with the appropriate City planner to ensure that the project is financially feasible and fits into the City's master plan and current zoning regulations.

1. If a project requires a change in zoning, the proposal is required to go before the zoning and appeals board and is subject to a minimum of one public hearing.
2. If a project does not adhere to the City's master plan, a minimum of one public hearing must be held in the neighborhood in which the project is proposed.
3. Revisions are requested of developer, as needed, and the revised proposal is resubmitted, evaluated by the LBA staff, and the Board of Directors will vote to approve or deny the transfer.

### **Appeals Process**

Individuals/entities who were denied purchase of LBA owned property may file a single appeal with the LBA Appeals Board utilizing the following procedures:

- The applicant appealing the rejection of a development proposal may request a written reason for rejection from the LBA.
- The applicant must submit to the LBA Appeals Board an appeals form, the rejected proposal and a written statement that details why the rejected proposal should be accepted.
- The LBA Appeals Board will review the information, hold a hearing regarding the proposal and make a final decision.

**Prepared by:** Amy Brooks, Demetria Collins, Barbara Eichmuller, Melisa Tintocalis and Simon van Leeuwen, Master of Urban Planning Candidates

# **University of Michigan**

## **Taubman College of Architecture and Urban Planning**

2000 Bonisteel Blvd., Ann Arbor, Michigan 48109-2069

### **Why create a land bank in Detroit?**

1. Detroit owns 35,000+ parcels of land that should be economic and community assets.
2. PDD is required by law to sell land at "fair market value" which can make development projects financially unfeasible.
3. PA 123 has enabled the Wayne County Treasurer since 2002 to foreclose on approximately 3,500 parcels each year.
4. The new PA 246 enables the Wayne County Treasurer to foreclose on all properties with delinquent City of Detroit taxes beginning in 2006.
5. The Wayne County Treasurer controls the disposition and all revenue from auctioning these parcels.
6. Detroit should regain control of its tax delinquent properties.
7. A land bank would provide a transparent process for the Wayne County Treasurer's Office and Detroit to coordinate disposition or transfer of city properties.

### **What is a land bank?**

1. A system that provides legal tools to facilitate the existing process. Its purpose is to overcome existing barriers that hinder the sale and redevelopment of tax reverted properties. Governor Granholm's Fast Track Land Bank Act gives a land bank the power to:
  - a. Establish priorities for preference for disposition (for example, to non-profit developers)
  - b. Sell land at nominal prices
  - c. Receive donations of land and other resources
  - d. Purchase land
  - e. Expedite judicial quiet title
  - f. Borrow money
  - g. Solicit grants
  - h. Exempt land held from taxes
2. A land bank CANNOT:
  - a. Exercise the power of eminent domain or condemn property
  - b. Levy taxes or special assessments
  - c. Be used to establish a casino
  - d. Be exempt from local zoning and land use laws

### **Why does Detroit need to act?**

1. To enable development of the 35,000+ city owned properties and return land to a tax generating use.
2. To provide a transparent system so that everyone has an equal opportunity to purchase land.
3. To regain control of city owned parcels that are in tax foreclosure under the current system.
4. To establish a procedure that would encourage a partnership with the Wayne County Treasurer.

### **What does Detroit need to do to set up a land bank?**

1. PA 258 has set up the framework
2. City has to establish an intergovernmental agreement with the state, and adopt by-laws and articles of incorporation.
3. University of Michigan Urban Planning students are designing the framework to assist Detroit in establishing a land bank that is unique for its purpose.